



May 24, 1999

Mr. John J. DeLaGarza, III
Assistant District Attorney
Dallas County Administration Building
411 Elm Street, Fifth Floor
Dallas, Texas 75202

OR99-1442

Dear Mr. DeLaGarza:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 124471.

Dallas County (the “county”) received a request for

[a]ll records pertaining to any exams performed on [a named individual] on January 30, 1998, and/or January 31, 1998, including but not limited to any rape kit tests performed.

You contend that the requested documents are excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and have reviewed the documents at issue.

Section 552.108(a) excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (1) release of the information would interfere with the detection, investigation, or prosecution of crime; [or] (2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication.” You state:

Though the grand jury in Dallas did not return a true bill of indictment against the suspect in the sexual assault, another indictment for the same offense against the same suspect could be brought at a later date,

if within the statute of limitations Since the statute of limitations for sexual assault is five years, the Dallas County Criminal District Attorney's Office may seek another indictment of the suspect in the future. Accordingly, this case is considered an active or "open" investigation, and release of the reports (Exhibits B and C) would hinder future prosecution of the case.

Based upon these representations, we conclude that the release of the requested documents would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Therefore, the county may withhold the documents from disclosure pursuant to section 552.108(a)(1).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in cursive script, reading "Karen Hattaway".

Karen E. Hattaway
Assistant Attorney General
Open Records Division

KEH/ch

Ref: ID# 124471

encl. Submitted documents

cc: Mr. Josh Bernstein
Attorney at Law
9400 North Central Expressway, Suite 419
Dallas, Texas 75231
(w/o enclosures)